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7	BEFORE THE BOARD OF REGISTERED NURSING
8	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
9	
10	In the Matter of the Accusation Against: Case No. 2011-517
11	HOLLY ELLEN CUSICK A C C U S A T I O N
12	1576 Route 9D Garrison, NY 10524
13	Registered Nurse License No. 549047
14	Respondent.
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17	Complainant alleges:
18	PARTIES
19	1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20	official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21	Department of Consumer Affairs.
22	Registered Nurse License
23	2. On or about October 20, 1998, the Board issued Registered Nurse License Number
24	549047 to Holly Ellen Cusick ("Respondent"). The registered nurse license was in full force and
25	effect at all times relevant to the charges brought herein and will expire on May 31, 2012, unless
26	renewed.
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- 28	///
	1

ACCUSATION

## STATUTORY PROVISIONS

- 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.
- 4. Code section 118 provides, in pertinent part, that the withdrawal of an application for a license after it has been filed with a board . . . shall not deprive the board of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any ground.
- 5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.
  - 6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action....

#### COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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# FIRST CAUSE FOR DISCIPLINE

## (Disciplinary Action by the New York State Board of Nursing)

- 8. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(4), on the grounds of unprofessional conduct, in that she was disciplined by the New York State Board of Nursing ("New York Board"), as follows:
- 9. On or about April 26, 2007, pursuant to a Consent Order, in the disciplinary action entitled *In the Matter of the Disciplinary Proceeding against Holly Ellen Cusick*, the New York Board issued an Indefinite Suspension as to Respondent's nursing license.
  - 10. The New York Board based its Order on the following facts:
  - a. On or about September 2006, Respondent was employed as a Registered Nurse at Nyack Hospital, located in Nyack, New York;
  - b. On or about September 8, 2006, Respondent, while on duty at Nyack Hospital, was assigned to Patient RS. At 12:30 a.m., Respondent withdrew two tablets of Xanax (.5 mg), from the hospital's drug supply for administration to RS but instead took one of the tablets for her own use; and
  - c. On or about September 8, 2006, at 1:30 a.m., Respondent withdrew one tablet of Tylenol #3 from the hospital's drug supply for administration to RS but instead took the tablet for her own use.

## SECOND CAUSE FOR DISCIPLINE

## (Unprofessional Conduct)

11. Respondent is subject to discipline under Code section 2761, subdivision (a), on the grounds of unprofessional conduct, in that Respondent committed acts constituting unprofessional conduct, as more particularly set forth in paragraphs 8 through 10, above.

## **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision: